

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

JULIUS C. BOSHKO, :
Plaintiff(s) :
vs. : Case Number: 1:04cv550
WARDEN, Warren Correctional Institute, : District Judge Susan J. Dlott
Defendant(s) :

ORDER

The Court has reviewed the Report and Recommendations of United States Magistrate Judge Timothy S. Hogan filed on August 23, 2005(Doc. 7), to whom this case was referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) expired September 12, 2005, hereby ADOPTS said Report and Recommendations.

IT IS ORDERED that Respondent's motion to dismiss (Doc. 4) is GRANTED to the extent that Grounds One, Two and Three of the petition (Doc. 1) are hereby DISMISSED with prejudice as time-barred under 28 U.S.C. § 2244(d) and the remaining claim alleged in Ground Four are hereby dismissed with prejudice as waived.

A certificate of appealability shall not issue because pursuant to the applicable two-part standard enunciated in *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000), “jurists of reason” would not find it debatable whether this Court is correct in its procedural rulings.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this order would not be taken in “good faith” and, therefore, DENIES petitioner leave to proceed on appeal *in forma pauperis* upon a showing of financial necessity. See Fed. R. App. P. 24(a); *Kincade v.*

Sparkman, 117 F.3d 949, 952 (6th Cir. 1997).

IT IS SO ORDERED.

s/Susan J. Dlott
Susan J. Dlott
United States District Judge